

Senate File 499 - Introduced

SENATE FILE 499

BY CELSI

A BILL FOR

1 An Act relating to tobacco, tobacco products, alternative
2 nicotine products, vapor products, and cigarettes, including
3 establishing a minimum age for activities relative to these
4 products, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.216C, Code 2019, is amended to read
2 as follows:

3 **321.216C Use of driver's license or nonoperator's**
4 **identification card by underage person to obtain tobacco, tobacco**
5 **products, alternative nicotine products, vapor products, or**
6 **cigarettes.**

7 A person who is under the age of ~~eighteen~~ twenty-one,
8 who alters or displays or has in the person's possession
9 a fictitious or fraudulently altered driver's license or
10 nonoperator's identification card and who uses the license
11 or card to violate or attempt to violate section 453A.2,
12 subsection 2, commits a simple misdemeanor punishable as a
13 scheduled violation under section 805.8A, subsection 4. The
14 court shall forward a copy of the conviction to the department.

15 Sec. 2. Section 453A.1, subsections 5 and 6, Code 2019, are
16 amended by striking the subsections.

17 Sec. 3. Section 453A.1, Code 2019, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 29A. "*Vending machine*" means any
20 self-service device offered for public use which, upon payment
21 or insertion of loose tobacco product, dispenses, or assembles
22 and dispenses, cigarettes or tobacco products, or which
23 upon insertion of money, a token, or an object dispenses,
24 or assembles and dispenses, cigarettes, tobacco products,
25 alternative nicotine products, or vapor products.

26 Sec. 4. Section 453A.2, subsections 1, 2, and 3, Code 2019,
27 are amended to read as follows:

28 1. A person shall not sell, give, or otherwise supply any
29 tobacco, tobacco products, alternative nicotine products, vapor
30 products, or cigarettes to any person under ~~eighteen~~ twenty-one
31 years of age.

32 2. A person under ~~eighteen~~ twenty-one years of age shall
33 not smoke, use, possess, purchase, or attempt to purchase any
34 tobacco, tobacco products, alternative nicotine products, vapor
35 products, or cigarettes.

1 3. Possession of tobacco, tobacco products, alternative
2 nicotine products, vapor products, or cigarettes by an
3 individual under ~~eighteen~~ twenty-one years of age does not
4 constitute a violation under this section if the individual
5 under ~~eighteen~~ twenty-one years of age possesses the tobacco,
6 tobacco products, alternative nicotine products, vapor
7 products, or cigarettes as part of the individual's employment
8 and the individual is employed by a person who holds a valid
9 permit under this chapter or who lawfully offers for sale or
10 sells cigarettes or tobacco products.

11 Sec. 5. Section 453A.2, subsection 8, paragraph a,
12 subparagraph (2), Code 2019, is amended to read as follows:

13 (2) The compliance effort is conducted with the advance
14 knowledge of law enforcement officers and reasonable measures
15 are adopted by those conducting the effort to ensure that use
16 of tobacco, tobacco products, alternative nicotine products,
17 vapor products, or cigarettes by individuals under ~~eighteen~~
18 twenty-one years of age does not result from participation by
19 any individual under ~~eighteen~~ twenty-one years of age in the
20 compliance effort.

21 Sec. 6. Section 453A.5, subsection 1, Code 2019, is amended
22 to read as follows:

23 1. The alcoholic beverages division of the department of
24 commerce shall develop a tobacco compliance employee training
25 program not to exceed two hours in length for employees and
26 prospective employees of retailers, as defined in sections
27 453A.1 and 453A.42, to inform the employees about state and
28 federal laws and regulations regarding the sale of tobacco,
29 tobacco products, alternative nicotine products, vapor
30 products, and cigarettes to persons under ~~eighteen~~ twenty-one
31 years of age and compliance with and the importance of laws
32 regarding the sale of tobacco, tobacco products, alternative
33 nicotine products, vapor products, and cigarettes to persons
34 under ~~eighteen~~ twenty-one years of age.

35 Sec. 7. Section 453A.6, subsection 8, Code 2019, is amended

1 by striking the subsection.

2 Sec. 8. Section 453A.13, subsection 1, Code 2019, is amended
3 to read as follows:

4 1. *Permits required.* Every distributor, wholesaler,
5 ~~cigarette vendor~~, and retailer, now engaged or who desires to
6 become engaged in the sale or use of cigarettes, upon which a
7 tax is required to be paid, and every retailer now engaged or
8 who desires to become engaged in selling, offering for sale, or
9 distributing alternative nicotine products or vapor products,
10 including through delivery sales, shall obtain a state or
11 retail permit as a distributor, wholesaler, ~~cigarette vendor~~,
12 or retailer, as the case may be.

13 Sec. 9. Section 453A.13, subsection 2, paragraphs a and b,
14 Code 2019, are amended to read as follows:

15 a. The department shall issue state permits to distributors,
16 and wholesalers, ~~and cigarette vendors~~, and to retailers
17 that make delivery sales of alternative nicotine products
18 and vapor products, subject to the conditions provided in
19 this subchapter. If an out-of-state retailer makes delivery
20 sales of alternative nicotine products or vapor products, an
21 application shall be filed with the department and a permit
22 shall be issued for the out-of-state retailer's principal place
23 of business. Cities may issue retail permits to retailers
24 with a place of business located within their respective
25 limits. County boards of supervisors may issue retail permits
26 to retailers with a place of business in their respective
27 counties, outside of the corporate limits of cities.

28 b. The department may deny the issuance of a permit
29 to a distributor, wholesaler, ~~vendor~~ or retailer who is
30 substantially delinquent in the payment of a tax due, or the
31 interest or penalty on the tax, administered by the department
32 at the time of application. If the applicant is a partnership,
33 a permit may be denied if a partner is substantially delinquent
34 on any delinquent tax, penalty or interest. If the applicant
35 is a corporation, a permit may be denied if any officer having

1 a substantial legal or equitable interest in the ownership of
 2 the corporation owes any delinquent tax, interest or penalty
 3 of the applicant corporation.

4 Sec. 10. Section 453A.13, subsection 3, paragraph a, Code
 5 2019, is amended to read as follows:

6 a. All permits provided for in ~~this subchapter~~ shall expire
 7 on June 30 of each year. A permit shall not be granted or
 8 issued until the applicant has paid for the period ending June
 9 30 next, to the department or the city or county granting the
 10 permit, the fees provided for in ~~this subchapter~~. The annual
 11 state permit fee for a distributor, ~~cigarette vendor~~, and
 12 wholesaler is one hundred dollars when the permit is granted
 13 during the months of July, August, or September. However,
 14 whenever a state permit holder operates more than one place of
 15 business, a duplicate state permit shall be issued for each
 16 additional place of business on payment of five dollars for
 17 each duplicate state permit, but refunds as provided in this
 18 subchapter do not apply to any duplicate permit issued.

19 Sec. 11. Section 453A.13, subsection 6, Code 2019, is
 20 amended to read as follows:

21 6. *No sales without permit.* A distributor, wholesaler,
 22 ~~cigarette vendor~~, or retailer shall not sell any cigarettes,
 23 alternative nicotine products, or vapor products until such
 24 application has been filed and the fee prescribed paid for a
 25 permit and until such permit is obtained and only while such
 26 permit is unrevoked and unexpired.

27 Sec. 12. Section 453A.36, subsection 6, Code 2019, is
 28 amended to read as follows:

29 6. ~~Any sales~~ The sale of tobacco, tobacco products,
 30 alternative nicotine products, vapor products, or cigarettes
 31 shall not be made through a cigarette vending machine are
 32 ~~subject to rules and penalties relative to retail sales of~~
 33 ~~tobacco, tobacco products, alternative nicotine products,~~
 34 ~~vapor products, and cigarettes provided for in this chapter or~~
 35 through a self-service display. ~~Cigarettes shall not be sold~~

1 ~~through any cigarette vending machine unless the cigarettes~~
 2 ~~have been properly stamped or metered as provided by this~~
 3 ~~subchapter, and in case of violation of this provision, the~~
 4 ~~permit of the dealer authorizing retail sales of cigarettes~~
 5 ~~shall be revoked. Payment of the permit fee as provided~~
 6 ~~in [section 453A.13](#) authorizes a cigarette vendor to sell~~
 7 ~~tobacco, tobacco products, alternative nicotine products, vapor~~
 8 ~~products, and cigarettes through vending machines. However,~~
 9 ~~tobacco, tobacco products, alternative nicotine products, vapor~~
 10 ~~products, and cigarettes shall not be sold through a vending~~
 11 ~~machine unless the vending machine is located in a place where~~
 12 ~~the retailer ensures that no person younger than eighteen~~
 13 ~~years of age is present or permitted to enter at any time.~~
 14 ~~Tobacco, tobacco products, alternative nicotine products,~~
 15 ~~vapor products, and cigarettes shall not be sold through~~
 16 ~~any cigarette vending machine if such products are placed~~
 17 ~~together with any nontobacco product, other than matches, in~~
 18 ~~the cigarette vending machine. [This section](#) does not require~~
 19 ~~a retail permit holder to buy a cigarette vendor's permit if~~
 20 ~~the retail permit holder is in fact the owner of the cigarette~~
 21 ~~vending machines and the machines are operated in the location~~
 22 ~~described in the retail permit.~~

23 Sec. 13. Section 453A.36A, subsection 1, Code 2019, is
 24 amended to read as follows:

25 1. Except as provided in [section 453A.36, subsection 6](#), a
 26 A retailer shall not sell or offer for sale tobacco, tobacco
 27 products, alternative nicotine products, vapor products, or
 28 cigarettes through the use of a self-service display.

29 Sec. 14. Section 453A.39, subsection 2, paragraphs b and c,
 30 Code 2019, are amended to read as follows:

31 b. A manufacturer, distributor, wholesaler, retailer, or
 32 distributing agent or agent thereof shall not give away any
 33 tobacco, tobacco products, alternative nicotine products, vapor
 34 products, or cigarettes to any person under eighteen twenty-one
 35 years of age, or within five hundred feet of any playground,

1 school, high school, or other facility when such facility is
2 being used primarily by persons under age ~~eighteen~~ twenty-one
3 for recreational, educational, or other purposes.

4 c. Proof of age shall be required if a reasonable person
5 could conclude on the basis of outward appearance that a
6 prospective recipient of a sample may be under ~~eighteen~~
7 twenty-one years of age.

8 Sec. 15. Section 453A.42, subsection 9, Code 2019, is
9 amended to read as follows:

10 9. "*Place of business*" means any place where tobacco
11 products are sold or where tobacco products are manufactured,
12 stored, or kept for the purpose of sale or consumption,
13 including any vessel, vehicle, airplane, or train, ~~or vending~~
14 ~~machine~~; or for a business within or without the state that
15 conducts delivery sales, any place where alternative nicotine
16 products or vapor products are sold or where alternative
17 nicotine products or vapor products are kept for the purpose of
18 sale, including delivery sales.

19 Sec. 16. Section 453A.47B, Code 2019, is amended to read as
20 follows:

21 **453A.47B Requirements for mailing or shipping — alternative**
22 **nicotine products or vapor products.**

23 A retailer shall not mail, ship, or otherwise cause to be
24 delivered any alternative nicotine product or vapor product in
25 connection with a delivery sale unless the retailer meets all
26 of the following ~~apply~~ conditions:

27 1. Prior to sale to the purchaser, the retailer verifies
28 that the purchaser is at least ~~eighteen~~ twenty-one years of age
29 through or by one of the following:

30 a. A commercially available database, or aggregate of
31 databases, that is regularly used by government and businesses
32 for the purpose of age and identity verification.

33 b. Obtaining a copy of a valid government-issued document
34 that provides the name, address, and date of birth of the
35 purchaser.

1 2. The retailer uses a method of mailing, shipping, or
2 delivery that requires the signature of a person who is at
3 least ~~eighteen~~ twenty-one years of age before the shipping
4 package is released to the purchaser.

5 Sec. 17. SMOKING POLICY — STATE FACILITIES AND VEHICLES
6 — CAPITOL COMPLEX BUILDINGS AND GROUNDS. Pursuant to section
7 8A.322 and 11 IAC 100.3, and in accordance with chapter 142D,
8 to improve the health of Iowans by reducing the level of
9 exposure to environmental tobacco smoke and the use of tobacco
10 products, the director of the department of administrative
11 services shall establish, publish, and enforce policies
12 and rules regarding smoking and the use of tobacco products
13 within the confines of state-operated and owned facilities,
14 state-owned and operated vehicles, and capitol complex
15 buildings and grounds. For the purposes of the policies and
16 rules:

17 1. "Smoking" means inhaling, exhaling, burning, or carrying
18 any lighted cigar, cigarette, pipe, or other tobacco product
19 in any manner or in any form and includes but is not limited to
20 burning or vaporizing tobacco or other products using a vapor
21 product as defined in section 453A.1.

22 2. "Tobacco product" means an alternative nicotine product,
23 a cigarette, a tobacco product, and a vapor product as defined
24 in section 453A.1.

EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill increases the minimum age relative to various
29 activities relating to tobacco, tobacco products, alternative
30 nicotine products, vapor products, and cigarettes from 18 years
31 of age to 21 years of age.

32 The bill prohibits a person from selling, giving, or
33 otherwise supplying any tobacco, tobacco products, alternative
34 nicotine products, vapor products, or cigarettes to any person
35 under 21 years of age. The bill also prohibits a person under

1 21 years of age from smoking, using, possessing, purchasing,
2 or attempting to purchase any tobacco, tobacco products,
3 alternative nicotine products, vapor products, or cigarettes.

4 The bill makes conforming changes in the Code relative to
5 use of a driver's license or nonoperator's identification card
6 by an underage person to obtain tobacco, tobacco products,
7 alternative nicotine products, vapor products, or cigarettes;
8 compliance efforts; the giving away of samples of tobacco,
9 tobacco products, alternative nicotine products, vapor
10 products, or cigarettes to persons under 21 years of age
11 and within 500 feet of certain locations; and the mailing,
12 shipping, or other delivery of alternative nicotine products
13 or vapor products.

14 The bill also prohibits the sales of cigarettes, tobacco,
15 tobacco products, alternative nicotine products, and vapor
16 products through a vending machine or the selling or offering
17 for sale of these products through a self-service display. The
18 bill includes a definition of "vending machine" which expands
19 the former definition of "cigarette vending machine" to include
20 the additional types of products.

21 A person holding a permit, including a retailer, who
22 violates a provision of the bill is subject to civil penalties
23 and permit suspension or revocation provisions based on the
24 number of violations. A person other than a retailer who
25 sells, gives, or otherwise supplies any tobacco, tobacco
26 products, alternative nicotine products, vapor products, or
27 cigarettes to any person under 21 years of age is guilty of
28 a simple misdemeanor. An employee of a retailer who sells,
29 gives, or otherwise supplies any tobacco, tobacco products,
30 alternative nicotine products, vapor products, or cigarettes to
31 any person under 21 years of age commits a simple misdemeanor
32 punishable as a scheduled violation ranging from \$100 to
33 \$500 based upon the number of violations. A person under
34 21 years of age who smokes, uses, possesses, purchases, or
35 attempts to purchase any tobacco, tobacco products, alternative

1 nicotine products, vapor products, or cigarettes is subject to
2 performance of community service hours ranging from 8 hours for
3 a first offense to 16 hours for a third or subsequent offense.

4 The bill also directs the director of the department of
5 administrative services to establish, publish, and enforce
6 policies and rules regarding smoking and the use of tobacco
7 products within the confines of state-operated and owned
8 facilities, state-owned and operated vehicles, and capitol
9 complex buildings and grounds. The bill defines "smoking" and
10 "tobacco product" for the purposes of the policies and rules to
11 include vapor products and alternative nicotine products.